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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte CHESLEY P. DILLON

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Appeal 2009-011719
Application 10/676,211[1]
Technology Center 2800

_____

Before JOSEPH F. RUGGIERO, MARC S. HOFF, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 from a Final Rejection of
claims 1-20 and 22-24. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellant's invention concerns a system and method for notifying a
subscriber (typically the driver of a motor vehicle) of events. A subscriber
event request is received at a call center, resulting in the creation of an event
activation table. This table is sent to an event table storage system. At the
appropriate time corresponding to the event, a subscriber notification is sent
from the event table storage system in accordance with the event activation

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[1] The real party in interest is General Motors Corporation.

table, and an action associated with the event is automatically executed (Spec. 2, 13).

Claim 1 is exemplary of the claims on appeal:

1. A method for notifying a subscriber of events, the method comprising:

receiving a subscriber event request at a call center wherein the call center is a telematics call center facilitating communications to and from a mobile vehicle;

creating an event activation table based on the received subscriber event request;

sending the event activation table to an event table storage system; and

sending a subscriber notification including an indicator of an action associated with the event from the event table storage system in accordance with the event activation table using a wireless network to cause a notification to be conveyed to the user and to additionally cause the action to be automatically executed.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Robbins	US 2002/0029386 A1	Mar. 7, 2002
Webb	US 2002/0143664 A1	Oct. 3, 2002
Liao	US 2003/0005466 A1	Jan. 2, 2003

Claims 1-20 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Webb.

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Webb in view of Robbins.

Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Webb in view of Robbins and Liao.

Throughout this decision, we make reference to the Appeal Brief ("App. Br.," filed Aug. 16, 2007), the Reply Brief ("Reply Br.," filed Dec. 5, 2007), and the Examiner's Answer ("Ans.," mailed Oct. 5, 2007) for their respective details.

ISSUE

Appellant argues that Webb does not teach sending a subscriber notification including an indicator of an action associated with the event from the event table storage system in accordance with the event activation table, to cause a notification to be conveyed to the user and to additionally cause the action to be automatically executed, as recited in each of the independent claims (App. Br. 5). In response to the Examiner's assertions in the Answer, Appellant further argues that Webb's teaching of displaying a pop-up window is not an action *associated with an event from the event activation table* (Reply Br. 2).

Appellant's contentions, and the Examiner's findings, present us with the following issue:

Does Webb, either alone or in combination with Robbins and/or Liao, teach or fairly suggest causing a notification to be conveyed to the user and additionally causing an action associated with the event to be automatically executed?

FINDINGS OF FACT

Webb

1. Webb teaches sending a reminder notification of a gift idea and an event date to a user at a point in time prior to the event, such notification directly or indirectly including links to gift merchant websites that sell gifts related to the gift idea (¶ [0033]).

2. Webb teaches that "[t]he notification comprises either an electronic mail message and/or a pop-up window that appears at user interface 20" (¶ [0033]).

PRINCIPLES OF LAW

> Section 103(a) forbids issuance of a patent when "'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'"

KSR Int'l Co. v. Teleflex, Inc., 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407, ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.").

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See In re Royka*, 490 F.2d 981, 985 (CCPA 1974).

ANALYSIS

Each independent claim (1, 8, 14, and 22) calls for causing a notification to be conveyed to a user and additionally causing an action associated with the event to be automatically executed or performed.

In the Answer, the Examiner urges that we construe the electronic mail message Webb sends to the user as the claimed "notification" to be conveyed to the user, and to further construe a pop-up window that appears at user interface 20 as the "action" to be automatically executed (Ans. 10-11).

We do not agree with the Examiner's construction. Webb's invention concerns sending a reminder notification of a gift idea and an event date to a user at a point in time prior to the event, such notification directly or indirectly including links to gift merchant websites that sell gifts related to the gift idea (FF 1). Webb teaches that "[t]he notification comprises either an electronic mail message and/or a pop-up window that appears at user interface 20" (FF 2). Webb thus clearly contemplates that a pop-up window displayed at a user's computer falls within the category of a "notification," rather than an action, as the Examiner urges.

Further, while we recognize that a command from a remote server to display a pop-up window at a user's computer might reasonably be considered "the action to be automatically executed," the Examiner fails to explain how Webb's command to display a pop-up window is an action

"associated with the event from the event table storage system in accordance with the event activation table," as the claims require.

The Examiner's asserted combination of references fails to teach or suggest every limitation of the claimed invention. We therefore find that the Examiner erred in rejecting claims 1-20 and 22-24 under § 103. We will not sustain the rejections.

CONCLUSION

Neither Webb alone, nor Webb in combination with Robbins and/or Liao, teaches or fairly suggests causing a notification to be conveyed to the user and additionally causing an action associated with the event to be automatically executed.

ORDER

The Examiner's rejection of claims 1-20 and 22-24 is reversed.

<u>REVERSED</u>

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